

Idaho's Citizen

Commission for Reapportionment

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Public Meeting Thursday, January 26, 2012 Room C110, Capitol Building 9:00 a.m.

Chairman Beitelspacher called the commission to order, and asked the secretary to take the roll. Present were Commissioner Crow, Commissioner Grange, Commissioner Hansen, Commissioner Martinez, and Chairman Beitelspacher. Commissioner Olsen was not yet present. Present from the staff were Mr. Keith Bybee, Ms. Kristin Ford, Ms. Cyd Gaudet, and Mr. Todd Cutler. Also present was the Secretary of State Ben Ysursa, Mr. Tim Hurst, and Mr. Brian Kane from the Attorney General's Office.

Mr.Ysursa explained that the Supreme Court's decision said that this commission should reconvene to revise the plan. He indicated that they had used the term "revised" in a very calculated manner, as that term was in 72-1501 (2), which went right along with reconvening. He stated that his duty to convene a commission or reconvene a commission was covered in 72-1501(1), and as that term was in paragraph 2, the court itself had reconvened this commission. He said that there had been lawsuits that were filed and dismissed, and some would argue that they were dismissed on technical terms, but the bottom line was that this commission had the solemn duty to redistrict the State of Idaho. He indicated that he wished them well in their deliberations and he would support them 100%.

Mr. Kane then explained to the commission that he had done a one page hand-out, which they had in front of them that described the legal ramifications and requirements, and also had some recommendations for the commission. He indicated that based on what the Supreme Court had said, one person one vote was still at the top of list, and any plan had to be under 10%. He said that they now had clear direction that county splits must be minimized. He explained that the court said that if they had a plan that split eight counties, and a plan that split seven counties, the plan that split eight counties was unconstitutional. He indicated that in his reading of the case that was an absolute, so if the commission got into a scenario where they had to split seven or eight counties, the seven split plan would always win. He said that a good example of that was the plan that Twin Falls County filed with their petition which would be considered unconstitutional because it had one additional split in Teton County. He indicated that based on his reading, and the math, the commission had a finite number at this point. He said that they had to adhere to the remainder of the criteria to the best of their ability, but reminded them that they couldn't rely on any of those criteria to facilitate an additional county split. He said that in looking at the criteria they should first start with the minimum county splits, and then go to the other criteria once they achieved the minimum county splits. He indicated that out of this he had created a series of recommendations to help the commission work through this issue. He said that the first thing for the commission to do was to identify under Article III, Section 4, how many districts they were going to have, because they were afforded that discretion by the Constitution, to choose between 30 and 35 districts.

At that time **Commissioner Olsen** arrived. **Chairman Beitelspacher** apologized for starting without her, and said that they had known that she was on her way.

Mr. Kane explained, that as he had been saying, he thought that the first issue for the commission was to determine how many districts they were going to have. That was because once they exercised that discretion, under the Constitution, then they would determine how many counties were going to be under the plan. He said that if they went with a 35 district plan, the way that the map worked as far as he had seen, they couldn't avoid splitting seven counties. He indicated that he thought that for the purposes of the commission that any time they drew a line across a county, that was a split. He said that he didn't think it was worth getting into whether they were splitting the county externally or internally. In answering a question from **Commissioner Olsen, Mr. Kane** indicated that anytime they drew a line

through a county, that would be a split. He went on to explain that Bonner County must be split based on geography and deviation, and there were no arguments there. He said that Kootenai County could be split internally, but it must be split. He indicated that Canyon County, Ada County, Twin Falls County, Bannock County, and Bonneville Counties must all be split. He said that there had already been plans submitted to the commission that split only those counties, and because it was essentially a mathematical certainty at that point that they could create a plan that only split those counties, he thought that established the ground floor for the commission. He indicated that if they created a plan that split an additional county somewhere else, he thought that based on the reasoning in the Twin Falls County case, that plan would be considered unconstitutional, and he respectfully asked the commission not to send him back in front of the court. Mr. Kane said that to assist the commission he had lined that all out for them. He said that there were some variations, and gave the examples of Canyon County and Bannock County where he explained that theoretically they could be internally divided without combining them with other counties. However he thought that it would wreak havoc with deviation, and they would have geographical issues with both of those counties as well because they bordered what he called "population light" areas. On the eastern side of the state he said it was even more difficult because Caribou County and Bear Lake County had lost population since the last reapportionment, so that made it even tougher to internally keep them together, and he indicated that those were the sort of things that should guide the commission. He stated that internal splits should be minimized as much as possible, and that the real key was the word "minimum", as in minimum under 10%, minimum county splits, and minimum internal county splits. He indicated that if the commission kept "minimum" as a mantra they would come out with plans that always came out as constitutionally defensible.

Commissioner Hansen asked about the commission's discretion to change from 35 districts. **Mr. Kane** explained that the Constitution said that the state shall be apportioned between 30 and 35 districts. He said that he thought that the mathematical part of it was an important consideration because his understanding of it was that once they went below 35 districts it altered the entire landscape as far as district size and county splits. So theoretically they could potentially preserve Bonner County, for example, by going to a 30 or a 31 district plan, however the problem was that once they came around the population bend in Ada and Canyon County it would wreak havoc on their numbers and the number of county splits at that point, and would become almost a runaway train. That was why he thought it was worth the commission saying that 35 districts worked for Idaho, and that was what they wanted to start with, and they already knew what their minimum county splits were, and that provided them with what he called a stable platform from which to begin their work. However he did say that the number of districts was within the commission's discretion.

In response to a question from **Commissioner Olsen** regarding internal and external county splits, **Mr. Kane** said that the way that the court had explained it was if the court was presented with a plan that had eight counties split, but it only split Twin Falls County, for example, one time, and then they were presented with a plan that split seven counties, but it split Twin Falls County two times, the seven county split plan, based on the reasoning of the Supreme Court, would win. He said that in all honesty it was clear direction, and it was clearer than anything that they had before, and it showed that no matter how long you had been doing something before, there was always a learning opportunity, which was one of the great opportunities in government, that you were always presented with an opportunity to learn something.

Commissioner Olsen asked if they had wilderness areas or areas that you could just not get to by roads, if that would come second to keeping counties together. **Mr. Kane** said that was correct, and the one thing that he would add was that sometimes the best way to show the difficulty in compliance with a law, was by complying with the law.

Commissioner Hansen said that if they were to talk pecking order, they knew that it would be Federal Law and the Constitution, then the splitting of counties would be second, and he asked if after that it would be a mishmash of everything else such as the road issue and communities of like interest. He also suggested that the testimony of the citizens really had no validity as they had very specific direction from the Supreme Court saying which was the way to go. Mr. Kane responded that the hierarchy was established, and it was deviation, county splits, and then everything else. He said that he thought that for the purposes of the commission they probably wanted to take a hard look at if they were again required to waive the requirements of Idaho Code 72-1506 (7) and (9) with regard to roads and precincts. He stated that as Commissioner Olsen had already observed, there was a significant wilderness area issue with regard to at least one proposed district, so that was an example of where maybe it was worth waiving those requirements. Then, he said, that he thought that where the communities of interest and the other criteria really became relevant were with the counties that had to be internally split. So where they drew the lines in Ada or Canyon County, for example, were where those issues could really come to bear, because the observation was accurate that where they were combining counties, a county was a county. So based on the way that the Supreme Court had ruled, that became the overarching community that was being preserved at that point. He said that as they preserved the county by combinations they could never make an argument that they had divided a community of interest if they were preserving the county boundary, so the other criteria came to bear where they were making internal splits.

Commissioner Martinez asked if they had two plans that had the equal number of county splits, and in looking at the other issues that they were trying to address, if one of the plans had a better population deviation, then should the commission prioritize that over a community of interest issue because that was the number one requirement that they needed to meet. **Mr. Kane** said he thought what the court had said was that once they got under 10% they were good, so that was the goal, and that once they hit that 10% that was essentially a magic line in the sand, and then it became a matter of discretion with the commission. Then when they were looking at the plans it became a matter of their findings of fact, and to show that they had adopted a plan that was improper would require a showing of improperness, meaning that they had done it in order to dilute a vote, or for some other improper purpose. He indicated that if they were

weighing between two plans and one plan had an 8% deviation, and the other plan had a 7% deviation, but for whatever reason everything else worked, he thought unless they were doing it for an improper purpose, they had the ability to choose among those plans. He said that the real key would be that no one on the commission say something to the effect of, "let's take this plan because it cuts Bonneville eight times", which was what the court was looking for, some sort of improper purpose or vote dilution of that magnitude, but otherwise he thought that once they were in the ballpark, it was their ballpark.

Chairman Beitelspacher asked if they split one county twice, then they had a county split, but if they split two separate counties once each they had two county splits. **Mr. Kane** indicated that was correct. **Chairman Beitelspacher** said that he thought they were ready to go to work, and that they appreciated **Mr. Kane** coming down, and he assumed that he would be available the rest of the week. **Mr. Kane** said that he would be available, and confirmed that the commissioners had his cell phone. **Chairman Beitelspacher** said that they appreciated the accessibility that he had provided to all of them, and that in the event they had a question come up they may ask him to come back and join them for a bit if he wouldn't mind. He also thanked **Mr. Kane** for the good job he did in front of the Supreme Court.

Mr. Ysursa advised the commission that he would have the office open for any plans that needed to be filed over the weekend.

Chairman Beitelspacher advised that it was the intention of the chairs to make sure that they had all of the procedural issues dealt with that morning. He then asked for Mr. Kane to come back in to discuss open meeting laws. He pointed out that they were limited in space as to where they could go to get away from one another so they did not break any open meeting laws. He said that as he understood it in the past, provided that no more than three of them met together to have a discussion, that they were o.k. and he asked Mr. Kane to clarify that for them. Mr. Kane explained that the open meeting law did cover the proceedings of the commission, and they were permitted to meet in less than a quorum, which for the purposes of the commission was four. He said that the caveat that he always gave was to be careful that they did not violate the serial meeting aspect of it, which would mean they would meet and discuss the same things with the same people, thus accidently convening a meeting. He indicated that they were certainly welcome to converse with less than a quorum, but urged them to be careful in how they did so. Chairman Beitelspacher asked if they were looking at a part of a map, but not all of the map, had they evaded violation of the serial meeting. Mr. Kane said that rather than evade violation he would quantify it as complying with the open meeting law, and stated that the key was that they did want to deliberate, or create discussion where they created a quorum in discussing a portion of a map, so they always had to be mindful of that aspect. He indicated that when they got to a point where they were discussing a portion of the map among the commission they wanted to make sure that the commission had been properly convened.

Commissioner Grange asked if they needed to use room C110 to do their work, and they were at ease, and only three of them were present, if they could shut the door and excuse the gallery. **Mr. Kane** said that if it was not a meeting they could do whatever they needed to do, however at that point he thought the meeting should be adjourned. **Chairman Beitelspacher** added that would be subject to call to the chair.

Commissioner Hansen said that he wanted to make sure that the commission was never disbanded, that their oaths were still in place, and that everything they had adopted up to that point continued to be part of their record. Chairman Beitelspacher said that he and Co-Chairman Crow had a discussion the prior day with Mr. Ysursa to get some clarification. He advised that Mr. Ysursa did not call them back, the Idaho State Supreme Court had called them back and reconvened the commission, and everything that was within their reach prior to their presentation of the previous plans to the Secretary of State was still within their reach and before them. Commissioner Hansen asked if the votes that they took previously on the roads issue, and the other things, might need to be revisited. Chairman Beitelspacher said that once they revised L87 and had a new plan they probably would have some road issues, or other issues, that would need to be revoted on. That was because they would have a new plan and they may have another precinct cut that was not cut before, and they would have to vote on that, or there might be a place where a road didn't exist because the district had changed, and they would have to vote on that.

Commissioner Crow asked if they needed to have a motion to take L87 forward. She then moved that the commission agree to start with L87 and continue forward. **Commissioner Grange** seconded the motion. **Chairman Beitelspacher** said that the motion before them was to commence with L87, to work on that and see if they could revise it to move forward. He then asked if there was any discussion. **Commissioner Hansen** said that it was his understanding that four of the six justices had made that recommendation to them, and **Chairman Beitelspacher** said that was correct. The motion passed unanimously with **Commissioner Crow, Commissioner Grange, Commissioner Hansen, Commissioner Martinez, Commissioner Olsen, and Chairman Beitelspacher** voting in the affirmative.

Mr. Bybee said that he might advise the committee, when they did adjourn to break into their working sessions, to adjourn to a time certain.

Chairman Beitelspacher indicated that he would entertain a motion to adjourn to a time certain. **Commissioner Hansen** so moved, with **Commissioner Grange** seconding the motion. **Chairman Beitelspacher** said that it had been moved and seconded to adjourn to a time certain which would be 12:00 p.m. He then asked for a vote. The motion passed unanimously with **Commissioner Crow, Commissioner Grange, Commissioner Hansen, Commissioner Martinez, Commissioner Olsen, and Chairman Beitelspacher voting in the affirmative. Chairman Beitelspacher** adjourned the commission until 12:00 p.m.

Chairman Beitelspacher called the commission back to order at 12:00 p.m. and said that they were going to go through the various five county split maps that had been submitted so that all of them together, as a group, had an opportunity to take a look at them and see what was there. **Commissioner Martinez** said that it was his understanding, from the court's perspective, that the minimum county splits was seven. **Chairman Beitelspacher** said that he was correct, and that he kept leaving out the counties that were split internally. He then said that it would be the plans with seven county splits, which would include Ada and Kootenai Counties. He further explained that there were five counties with external splits, and two more counties with internal splits, but the Supreme Court had interpreted that as a split county for their purposes. **Commissioner Martinez** said that rather than referring to five county splits they should all make the effort to refer to seven, as otherwise it would be confusing to the public. **Chairman Beitelspacher** said that was a good point.

Chairman Beitelspacher pointed out that they were having a working lunch, with everyone together, and the public would have an opportunity to watch them in action.

He explained to **Mr. Bybee** that they wanted to go to the seven county split maps, the ones with five external and two internal splits. **Mr. Bybee** indicated that they would start with L66. **Chairman Beitelspacher** pointed out that they were streaming, and that they were not there to vote anything up or down, but they were there to look at any parts of the maps that anyone may have an interest in seeing so they could see how a particular area or a particular part of a county might be treated. **Commissioner Crow** asked if these were maps that other people had submitted, and **Chairman Beitelspacher** said that these were maps that had been submitted to the commission. **Commissioner Crow** said that she thought they should indicate who had submitted them, so that was on the record, and **Chairman Beitelspacher** agreed.

L66, which was a plan that was proposed by the previous commission, was first brought up for review. **Chairman Beitelspacher** asked that they go through the list of seven county split plans and determine who had submitted them. It was pointed out that L66, L67, L76, L77, and L79 came from the previous commission. L90 was submitted by **Grant Loebs**, and L91 was submitted by **Don Rosebrock**. **Commissioner Hansen** asked if all of the maps complied with the one person one vote criteria. **Mr. Bybee** indicated that he would run the statistics report for each map to see if they were under the 10% deviation. It was determined that if they were not under the 10% deviation it would be a waste of the commission's time to review them.

Mr. Bybee indicated that L66 had a deviation of 8.5%. The commission then reviewed the plan starting from the north.

This plan had three districts internally within Kootenai County, and Bonner County was split, so those were the first two counties that were split.

District 2 went from Bonner County down to Idaho County.

Districts 6 and 7 were a configuration they had seen before with Benewah, Latah, and Lewis Counties.

District 8 had Valley County, Adams County, Washington County and Payette County together.

District 9 had Gem, Boise, and Custer Counties, along with a portion of Canyon County that included the Middleton and Star area together, and was the third county split (Canyon County).

Ada County was the fourth county that was split.

District 23 included Owyhee, Elmore, and a portion of Twin Falls County, so it was the fifth county that was split.

District 25 contained a portion of the city of Twin Falls and a large portion of rural Twin Falls County.

District 24 was Jerome County and a portion of Twin Falls County, along with the city of Twin Falls.

District 27 included Gooding County, Lincoln County, Minidoka County and Camas County.

District 26 included Blaine, Butte, Lemhi, Clark and Fremont Counties.

District 35 contained Jefferson County and the more rural area of Bonneville County, so Bonneville was the sixth county that was split.

District 33 was the city of Idaho Falls plus a little extra on the outskirts.

District 34 contained Madison and Bonneville Counties.

District 32 included more of Bonneville County, along with Teton and Caribou Counties.

Bingham County was whole.

District 29 included Cassia, Power and Bannock County, along with a portion of the city of Pocatello.

District 28 contained south Bannock County, Bear Lake County, Franklin County and Oneida County, and part of the city of Pocatello, making Bannock the seventh split county.

Mr. Bybee indicated that this plan met the first two Constitutional tests so it would be properly before the commission.

The commission then reviewed L67 which had an 8.35% overall deviation, so **Mr. Bybee** said that it met the first test. **Commissioner Crow** asked if they knew how many splits L67 had. **Mr. Bybee** said that it stated it had seven county splits, however they would go through and make sure that it met all of the tests. He explained that the difference between that plan and the prior plan was that District 2 went all of the way to the north Bonner border, and split it east/west, which was the first county split (Bonner County).

Kootenai County contained three full districts. **Mr. Bybee** noted that when the previous commission drew plans they did not split precincts for the most point, as their attitude was that the precinct came first, so there were not a lot of split precincts on most of the maps that they would see.

Chairman Beitelspacher explained for the benefit of the press that they were going through the maps that had been submitted to the commission that met the required seven county splits that the Supreme Court had decided they had to meet, and they were taking the time over lunch to go through them and review them all together.

Continuing on L67, District 2 went from northern Bonner County down to Idaho County.

District 6 was Benewah and Latah Counties.

District 7 included Nez Perce and Lewis Counties.

District 8 contained Butte, Lemhi, Custer, Valley, Boise, Washington, and Adams Counties.

District 10 included Payette County, Gem County, and a portion of Canyon County, which made the third county split on that map. It was noted that it went all the way into the city of Caldwell following I84.

District 9 contained Parma, Wilder and Owyhee County and then looped back around into Canyon County, and included Elmore County.

Ada County was split internally only, making it the fourth county split.

District 25 included Blaine, Camas, Lincoln and Gooding County, with a portion of Twin Falls.

Twin Falls County and Jerome County were together in District 26, which contained most of the city of Twin Falls.

Cassia County was combined with Minidoka County and eastern Twin Falls County in District 27.

District 28 had Power County and Bannock County together circling the city of Pocatello.

District 31 went from Oneida County, and included Franklin, Bear Lake, Caribou, Bonneville, and Teton Counties.

In District 30 Bingham County was whole.

District 33 contained northern Idaho Falls, and the cities of Iona and Ammon.

District 32 was Idaho Falls proper.

District 34 was rural Bonneville County with Jefferson County, Fremont County, and Clark County.

District 35 contained the Ucon area and reached into Madison County.

Mr. Bybee indicated that L67 had seven county splits. **Commissioner Grange** asked how many districts Bonneville County was split into, and **Mr. Bybee** advised that it was split into five districts.

Chairman Beitelspacher then asked that the commission review L76, which was submitted by the previous commission. **Commissioner Hansen** asked if there was a distinction between who on the previous commission had submitted the plans. **Mr. Bybee** explained that of the seven county split plans four had been submitted by the Republicans, and that the Democrats had submitted L67.

The commission then reviewed L76 which had a deviation of 8.03%.

Bonner County was the first county that was split.

Kootenai County was split internally into three districts, with more of Post Falls and western Coeur d'Alene in one district. **Commissioner Hansen** asked how far north District 3 went, and **Mr. Bybee** determined that it went to the border. The commission then reviewed an overlay of L87 over L76 in Kootenai County.

District 2 went from Bonner County to Idaho County.

Districts 6 and 7 contained Latah, Benewah, Nez Perce, and Lewis Counties.

District 8 had Adams County, Washington County, Payette County and a portion of Canyon County, for the third county split.

District 9 contained Lemhi, Custer, Boise, Valley and Gem Counties.

Mr. Bybee said that in Canyon County they could call it the levels look as it was layered all the way through.

Ada County was the fourth county split.

District 23 contained Owyhee County, Elmore County, and a portion of Twin Falls County.

District 25 had a north/ south line, which was Blue Lakes Boulevard, running through the middle of the city of Twin Falls.

District 24 contained eastern Twin Falls County with Jerome County, plus the city of Twin Falls. **Commissioner Hansen** noted that the line followed Rock Creek Canyon.

District 27 was Blaine County, Camas County, Lincoln County, and Gooding County.

District 29 contained Minidoka and Cassia Counties.

District 32 was Oneida, Franklin, Bear Lake, Caribou, Bonneville and Teton Counties.

In District 28 the dividing line ran down the middle of the city of Pocatello. It included Power County, then cut through the city of Pocatello and tied it up with the city of Chubbuck.

District 31 then took in Chubbuck, part of the city of Pocatello, Inkom, and the rest of the south Bannock County. It was noted that the line followed Yellowstone to Quinn Road, then to Hawthorne, and to the Interstate. On the south it used Oak to 15th Street, up Center Street to 19th, and then back to the Interstate.

Mr. Bybee pointed out that this plan was submitted to the Supreme Court on the second challenge from **Lou Esposito** and **Christ Troupis**. **Commissioner Olsen** asked if this was the plan that the prior commission had submitted after their time had run out, and **Chairman Beitelspacher** advised it was prior to that. **Commissioner Grange** advised the commission that the compromise map, which the prior commission had submitted, had twelve county splits so they would not be looking at that one.

Continuing with L76, **Mr. Bybee** pointed out that the rest of southern Bannock County was in District 31 which went through the middle of Pocatello, into Chubbuck, and down to south county.

Bingham County was whole in this plan.

Bonneville County was split between four separate districts, with one district through the middle of Idaho Falls at First Street. **Commissioner Hansen** pointed out that the city of Idaho Falls had pleaded with them not to divide the town like that. **Commissioner Olsen** asked what the west boundary was, and it was determined that it was the river. She also asked what other counties were in District 35, and **Mr. Bybee** confirmed that District 35 was only Bonneville County. **Chairman Beitelspacher** asked to have L87 overlaid in the Bonneville County area. **Commissioner Olsen** asked how this plan was able to make the population work with only Bonneville County, and **Mr. Bybee** explained that it was because this plan took population out of Idaho Falls to make a total population of 44,859 in District 35.

Chairman Beitelspacher asked about Teton County, and **Mr. Bybee** explained that Teton County was a part of the district that wrapped around to Oneida County.

Madison County and Bonneville County were joined all the way to Lincoln. **Commissioner Hansen** asked what the dividing line on the right hand side was, and it was determined that it was the Snake River. **Commissioner Olsen** asked about the western boundary. **Mr. Bybee** advised that Lincoln Road was the southern boundary, and the western boundary was N 25th E, or West Road.

District 26 contained Butte County, Jefferson County, Clark County and Fremont County. **Mr. Bybee** advised that this plan had seven counties that were split, with around an 8% deviation.

Chairman Beitelspacher advised that the next plan they would review would be L77. This plan had a deviation of 7.98%.

District 2 went to the northern border of Bonner County, which was the first county that was split.

Districts 3, 4, and 5 were wholly contained in Kootenai County.

District 2 went to Idaho County.

District 8 included Valley, Adams, Washington and Payette Counties, and did not include any of Canyon County.

District 9 contained Custer County, Boise County, Gem County, and a portion of Canyon County.

District 26 included Blaine, Butte, Lemhi, Clark and Fremont Counties. **Commissioner Hansen** suggested that he did not think that they needed to review this plan any further. **Commissioner Grange** said that she was curious to see what Idaho Falls looked like on the map.

The first split of Bonneville County was a Jefferson County, Bonneville County configuration. In answering a question from **Commissioner Olsen, Chairman Beitelspacher** said that they would like to look at all of the plans and refrain from diving into the merits of individual portions of them. He indicated that they were there to educate themselves about what the public had submitted to them, and to make notes about any parts of the plans that they may want to use in later working sessions.

Continuing with L77, District 32 took the urban area of Idaho Falls, and went as far as Teton County, Bonneville County and Caribou County, and appeared to aim to fix the reverse "L" shape from Teton County to Oneida County.

South Bannock County was with Bear Lake, Franklin, and Oneida Counties in District 28.

The city of Pocatello was split between a Power County District and a north Bannock County District with the city of Chubbuck. District 29 went from the City of Pocatello all the way over through Cassia County. In answer to a question from **Chairman Beitelspacher**, **Mr. Bybee** confirmed that this was a seven county split plan.

In Twin Falls the dividing line went down Blue Lakes Boulevard. A portion of northeast Twin Falls County went with Jerome County and the city of Twin Falls, northwest Twin Falls County went with Elmore and Owyhee County, and the other portion of Twin Falls County went with Gooding, Lincoln, Camas and Minidoka Counties.

Mr. Bybee advised that in the next plan they would see what **Mr. Esposito** liked to call the trans-county split where Ada and Canyon Counties were split into a district.

Chairman Beitelspacher asked that they move to the next plan, which was L79 with a deviation of 8.95%.

Bonner was the first county that was split in this plan.

Chairman Beitelspacher asked if this plan divided Ada County. **Mr. Bybee** clarified that all of the plans divided Ada County, however this plan divided Ada County with Canyon County. **Chairman Beitelspacher** asked if that would cause them problems with the court, and **Mr. Bybee** advised that it did. **Chairman Beitelspacher** indicated that they didn't want to waste their time. **Mr. Bybee** said that he would show them and then they could move on. In reviewing it was determined that this was not the plan that had the trans-county split with Ada and Canyon Counties. **Chairman Beitelspacher** asked what county was combined with Owyhee County, and it was determined that it was a portion of Canyon County.

District 2 went from Bonner County down to Adams County.

It incorporated Lemhi, Custer, Valley, Boise and Gem Counties in District 9.

Washington, Payette, and a portion of Canyon County were combined, which made the third county split.

Commissioner Hansen confirmed that District 11 went across several communities and included Caldwell, Nampa, Middleton, Wilder and Greenleaf.

District 13 reached into Canyon County and Owyhee County.

District 23 included Elmore County, Camas County, and Gooding County. **Commissioner Hansen** asked what the deviation of District 23 was. It was determined that the population was 43,619 with Elmore County, Camas County, and Gooding County. There was some discussion regarding whether this figure was correct, so the county populations were put up on the screen. **Commissioner Grange** suggested that the confusion arose because they had been previously looking at putting Elmore County, Camas County and Blaine County together. **Commission Hansen** confirmed that the 43,619 number was correct, and he asked that they go back to look at Owyhee County to see if that district went up into Canyon County. There was a discussion regarding the population of Owyhee County being 11,000, so this plan had to go up and get 34,000 people out of Canyon County to make a district. **Commissioner Crow** asked that they zoom in to determine where the population had been taken from. It was discussed that the north end of the split went from Ustick Road to Denemere Loop, Cherry Lane, on to Franklin Boulevard, Kings Road, Amity, and on to Powerline.

Blaine County, Lincoln County, and Minidoka County were combined into District 27.

Commissioner Hansen confirmed that on this map Twin Falls County was divided three ways with part of it going with Cassia County. It was then discussed that part of the city of Twin Falls went with Jerome County, and part of it went with Cassia County.

District 29 went into Twin Falls, and included Power, and Cassia Counties, but did not go into Bannock County.

South Bannock County was paired with Oneida County in District 28. **Commissioner Hansen** asked what the divider on the north was. **Commissioner Martinez** advised that the plan came down Pocatello Creek Road and turned onto Alameda Road. **Commissioner Hansen** then asked what the dividing line on the right side was that went to Caribou, and it was determined it was the county line.

District 32 included Franklin County, Bear Lake County, Caribou County, Bonneville County, and Teton County.

Bingham County was kept whole.

Commissioner Olsen asked about the boundary on the right of District 32, which was Sunnyside, and to the left, which was the river, and then following the county line. She then asked what was combined with the west side, and it was determined to be west county and Iona, so it stayed within Bonneville County and went out to the line. Mr. Bybee pointed out that it went all the way over to Iona. Chairman Beitelspacher noted that one district included part of Idaho Falls with areas to the north and west, and another district took the rest of Idaho Falls to the south, to the Bingham County line. Commissioner Olsen asked if the .3 was then the same as in the rest of the plans. Chairman Beitelspacher said yes, although part of the .3 went up into Madison County to make that whole, and the other part of that .3 slid over into Teton County, Caribou County, and the Wyoming line. He indicated that Teton County was not split. Chairman Beitelspacher then confirmed that he was correct in saying that there were no maps with seven splits that split Teton County.

District 26 combined Fremont County, Clark County, Jefferson County, and Butte County.

The commission then reviewed L90, which was submitted by **Grant Loebs**, and had a deviation of 9.32%.

District 7 went to the Boundary County border and split Bonner County.

Commissioner Hansen asked if there was something in this plan that the Attorney General had said did not meet the constitutional requirement. **Mr. Cutler** said he believed that **Mr. Kane** was talking about the map that was submitted with the lawsuit, not this plan. **Chairman Beitelspacher** said they certainly did not want to waste the commission's time, and **Commissioner Hansen** said that in the same regard he wanted to make sure that what the Attorney General's office had said that morning was not indicative of that map.

The commission then reviewed the Coeur d'Alene area with L87 overlaid onto L90.

District 7 went to Idaho County.

District 8 included Adams County, Washington County, Payette County, and a portion of Canyon County. **Chairman Beitelspacher** asked what the boundary followed after I95 turned, and it was determined that it was the river.

Mr. Bybee advised that there were no other splits in Canyon County. In going into more detail in the Canyon County area, he said that it appeared that the boundaries followed precincts. He noted that Riverside was the western boundary, then to Ustick, to Wagner, to a precinct boundary, to the Interstate, and on to Karcher Road.

Commissioner Hansen asked what the boundaries of District 13 were. Those appeared to be the Canyon County border, Lone Star Road, to a precinct boundary.

Commissioner Hansen asked how far this map went into Canyon County to pull population up into District 8. It was discussed that it went all the way to the Owyhee County line. **Commissioner Hansen** asked what communities were involved there. Present was an Owyhee County Commissioner who noted that those communities included Roswell, Happy Valley, and Parma. In answer to a question from **Commissioner Hansen** about how far north this district went it was determined that it went to Adams County.

In Twin Falls a portion of the city went with Owyhee County. **Chairman Beitelspacher** asked about the dividing line in the corner on the far right, which was determined to be the county line.

District 26 included Minidoka County, Blaine County, and Lincoln County.

District 27 was composed of Cassia County and Jerome County.

District 30 included Bannock County and Power County with the city of Pocatello as the doughnut hole.

District 31 did not go all the way to Teton County, as Bonneville County was treated like a pie on the map, with the dividing line going almost all the way into the city to grab population. **Chairman Beitelspacher** commented that this map took approximately 30,000 people from Bonneville to complete the district. **Commissioner Hansen** confirmed that the city of Idaho Falls was divided into thirds. The commission then discussed the lines that went into Idaho Falls, and it was determined that they were First Street, 9th Street, and the Interstate.

Commissioner Olsen asked what the southern boundary of District 33 was, and it was determined that it was 49th Street. It was also discussed that District 31 went all the way down to Oneida County and to the Utah border, so that district took the center portion of Idaho Falls down to the Utah State line. **Chairman Beitelspacher** pointed out that District 32 was the west half of Bonneville County. It was also discussed that the southern border of District 34 was Eden Drive.

Commissioner Hansen said that he thought it was wonderful that they had all of these plans, however the question that he had from talking with Mr. Loebs was about any additional documentation or comments as to who specifically supported that particular map. Mr. Bybee then read the comments from the map which stated, "This FIVE-COUNTY SPLIT PLAN is derived from 1. The *Twin Falls et al* Supreme Court Proposal. 2. WITH the addition of L87's Ada County. 3. A NEW Teton Bonneville section which avoids splitting Teton County and spreading that District all the way from Teton to Utah and 4. A NEW Bannock Power section which keeps Pocatello whole and combines Power with rural Bannock. Deviation is approx. 9.4%. This plan follows the U.S. and Idaho Constitutions, the recent Idaho Supreme Court ruling, and the I.C. 72-1506 (5) requirement that Division of counties shall be avoided whenever possible. In the event that a county must be divided THE NUMBER OF SUCH DIVISIONS PER COUNTY SHOULD BE KEPT TO A MINIMUM. The following counties through their Commissioners and the Clerks have approved this plan for their respective counties Ada, Adams, Bingham, Butte, Caribou, Clark, Elmore, Franklin, Fremont, Gooding, Kootenai, Owyhee, Teton and Twin Falls. This plan is also supported by Twin Falls City through its Council. We appreciate the work of the Commission and its consideration of this proposal."

Commissioner Crow asked if there was written documentation that those counties supported the map. Phil McGrane from the Ada County Clerk's office was present and was asked if Ada County did agree with the map. Mr. McGrane said that their office had been contacted, and that they supported L87 for Ada County. He said that they indicated no preference or opinions for the remainder of the plan that was proposed there. Commissioner Crow said that she thought they had to be very careful that they did have written documentation from the cities, not just someone's idea that they did say O.K. Commissioner Hansen said that he felt it was important that be brought up, and it was a serious consideration if they were looking at that plan. He indicated that not all of those counties were impacted by any of the plans, as those counties had to stay whole. He said it would be interesting to see what Bonneville County's response would be. He indicated that as he looked at the lawsuit, that splitting within the community was the major concern within his own county, so that would have to be an issue they would have to consider.

In further reviewing the plan Commissioner Olsen noted that District 35 was Clark County, Fremont County, and Butte County.

The commission then reviewed L91. In answer to a question from **Commissioner Hansen**, **Chairman Beitelspacher** noted that Bonner County was split. He said that on some maps District 7 went all the way north to the Boundary County line, some of them followed Highway 95 and the lake, and on this particular map the boundary went all the way across to the Washington State line on the left. He said in that way they were able to touch Oregon, Montana , and the state of Washington all in one district. Commissioner Hansen asked if all of the other maps followed the lake. Chairman Beitelspacher indicated that was correct, that most maps placed the district border a little bit to the west of where the number 7 was on this map. **Commissioner Hansen** asked if this map met the deviation, and **Mr. Cutler** advised that the deviation was 9.9%. **Commissioner Beitelspacher** pointed out that all of these maps so far, with one exception, had cut off at the Idaho County line, however there was one that went down into Adams County, but most of them seemed to cut it at Idaho County and then did what damage they had to do up north of Bonner County.

District 9 consisted of Adams County, Washington County, Payette County, and picked up part of Canyon County. It was discussed that the bottom boundary went down to the county line along the Oregon border.

District 8 included Lemhi County, Custer County, Valley County, Boise County, and Gem County.

District 23 contained Owyhee County and Elmore County, and picked up part of Twin Falls.

District 26 included Camas, Blaine, Gooding, and Lincoln Counties.

District 25 included Minidoka and Jerome Counties.

District 27 picked up part of Twin Falls. It was determined that the west border of Districts 24 and 27 was 280th Street, and a precinct boundary. The south boundary was also precinct lines.

Bingham County was whole in District 31.

Power County was combined with Bannock County.

Chairman Beitelspacher asked what this plan did in Bonneville County. **Mr. Cutler** advised that District 32 went from Oneida County up to Teton County, and that Madison was what they had seen in other maps. Butte County, Clark County, Jefferson County, and Fremont County were in District 35.

Commissioner Olsen said that District 33 looked similar to L87, and **Chairman Beitelspacher** agreed. She then asked to see Precinct 58 in Bonneville County. This turned out to be a very large precinct, and she said that apparently that precinct's population was needed to complete the district. **Commissioner Hansen** said that almost every single plan they had looked at had taken Precinct 58 and put it there. **Chairman Beitelspacher** said that they had looked at that earlier to see if there was a way to clear that up, but there was nothing out there, there were no roads, and it was out in the brush. **Commissioner Olsen** said that was the perfect example of the findings that they had in their first map, that there were mountains and no roads.

She then asked about the boundaries of District 33. **Mr. Cutler** said that they were South 25th Street on the east, on the north was Anderson, and on the south was Sunnyside. **Chairman Beitelspacher** asked to have L87 overlaid on this portion of the plan, and it was determined that it was identical. He also pointed out that the difference in the Idaho Falls area was that Madison County came in and took part of Bonneville County, which eliminated two county splits. **Commissioner Olsen** said that the problem was that District 32 became huge, and in their map they were able to go into Oneida County, because they had split Teton County, which they could no longer do. **Chairman Beitelspacher** said that he and **Commissioner Olsen** had a good idea getting a little bit of Fremont County and a little bit of Teton County; however the Chief Justice viewed that a little bit differently. **Commissioner Olsen** said that they went where the Chief Justice led them. **Commissioner Hansen** said that also part of that was the extra that they had put into Bingham County, so they were able to make that adjustment.

Chairman Beitelspacher suggested a ten minute break, now that they had gone through all of the maps at the good suggestion of **Commissioner Hansen** and **Commissioner Martinez**. He indicated that they would be at ease for ten minutes, and come back at 2:00 p.m.

Chairman Beitelspacher called the commission back to order at 2:30 p.m. and asked the secretary to take the roll. Present were **Commissioner Crow, Commissioner Grange, Commissioner Hansen, Commissioner Martinez, Commissioner Olsen**, and **Chairman Beitelspacher**.

Chairman Beitelspacher indicated that **Commissioner Grange** had taped a piece of paper to the wall, as he thought it would be a good idea to list, for everyone to see for themselves, what counties they would wind up splitting. He said that for the five external splits they had Bonner County, Canyon County, Twin Falls County, Bannock County, and Bonneville County. He indicated that numbers six and seven would be Ada County and Kootenai County. He then asked **Mr. Cutler, Mr. Bybee**, and **Ms. Ford** if to their knowledge there were any other plans that they had seen that showed any smaller denomination of counties that could be split with 35 districts. **Mr.Bybee** said that would be mathematically impossible according to the Supreme Court ruling, as the Supreme Court, in their findings counted twelve counties that were split, which included Ada County. He said that they knew that the other eleven were split externally to stay in that same frame of mind, and so the 12th was necessarily Ada County. In knowing that, he said that any county with a population over the 10% deviation had to be split once. Those counties, he said were Canyon County, Bannock County, Twin Falls County, Bonneville County, Kootenai County and Ada County, whether they were talking about a 30 district plan or a 35 district plan. He added that Bonner County had to be split in a 35 district plan because of the geography.

Chairman Beitelspacher said that it would be the intention of the chair to adjourn until 4:50 p.m., at which time they would reconvene. **Commissioner Olsen** so moved, and **Commissioner Martinez** seconded the motion. As the vote was unanimous, **Chairman Beitelspacher** stated they would be adjourned until 4:50 p.m.

Chairman Beitelspacher called the commission back to order at 4:52 p.m. He said that they planned to meet at 9:00 a.m. the following morning to begin their work again, at which time **Commissioner Crow** would assume the chair. As there was no other business that needed to come before the commission, he said that he would entertain a motion to adjourn. **Commissioner Hansen** so moved, and **Commissioner Grange** seconded the motion. As all were in favor, **Chairman Beitelspacher** stated that they would adjourn until the following day at 9:00 a.m.